

EXHIBIT A

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 11-622-JST (VBKx)

Date: May 18, 2011

Title: National Organization of Assistance for Homeowners, et al. v. America’s Servicing
Company, et al.

Present: **Honorable JOSEPHINE STATON TUCKER, UNITED STATES DISTRICT JUDGE**

Nancy Boehme
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

Not Present

**PROCEEDINGS: (IN CHAMBERS) ORDER STRIKING MOTIONS (Docs. 16,
20)**

On May 9, 2011, Defendants HSBC Mortgage Corporation and Beneficial Financial I, Inc. filed a Motion to Dismiss and for a More Definite Statement. (Doc. 16.) On May 17, 2011, Defendant Specialized Loan Servicing filed a Motion to Dismiss and for a More Definite Statement. (Doc. 20.)

Under Local Rule 7-3, “counsel contemplating the filing of any motion shall first contact opposing counsel to discuss thoroughly, *preferably in person*, the substance of the contemplated motion and any potential resolution.” C.D. Cal. R. 7-3. The purpose of Local Rule 7-3 is to help the parties “reach a resolution which eliminates the necessity for a hearing . . .” C.D. Cal. R. 7-3. If the parties are unable to resolve their differences and are forced to bring the matter before the court, counsel for the moving party must include in the notice of the motion, a statement to the effect that “[t]his motion is made following the conference of counsel pursuant to L.R. 7-3 which took place on (date).” *Id.*

The Court notes that HSBC’s and Beneficial Financial’s Notice of Motion states that Defendants’ counsel “attempted to contact Plaintiffs’ counsel at the phone number listed in the FAC to conduct the conference of counsel pursuant to L.R. 7-3” but that “Plaintiffs’ counsel did not return Defendants’ counsel’s voicemail messages.” (Doc. 16 at 3.) Specialized Loan’s Notice of Motion likewise states that “Plaintiff’s counsel was unable to be reached despite diligent attempts; therefore, a conference of counsel pursuant to Local Rule 7-3 was not feasible.” (Doc. 20 at 5.) Daniel J. Lee, counsel for Specialized Loan, submitted a declaration stating that he attempted, to no avail, to call Dickson at multiple numbers. (Lee Decl., Doc. 2-1, ¶¶ 4-6.)

Moreover, the Court notes that on May 12, 2011, Plaintiffs filed a request to substitute Stephen Chang for Dickson as Plaintiffs’ attorney of record. (Doc. 19.) In light of this, and in the interests of judicial economy, all parties would be better served if Defendants’ counsel

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attempted to meet and confer with Mr. Chang regarding the subject matter of the Motions before the Court considers them. Thus, Court STRIKES Defendants' Motions (Doc. 16, 20) for failure to comply with local rule 7-3 and ORDERS parties to properly meet and confer before re-filing any further motion.

Initials of Preparer: nkb

EXHIBIT B

EXHIBIT B

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 10-9812 PA (MANx)	Date	March 23, 2011
Title	Benjamin Daniels, et al. v. BAC Home Loans Servicing LP, et al.		

Present: The Honorable	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE		
	Paul Songco	Not Reported	N/A
	Deputy Clerk	Court Reporter	Tape No.
	Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
	None	None	

Proceedings: IN CHAMBERS - COURT ORDER

Before this Court is a Motion to Strike Defendants' Notice of Non-Opposition to Motion to Dismiss filed by plaintiffs Benjamin Daniels and Diana Daniels (collectively "Plaintiffs") (Docket No. 21). Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court finds that this matter is appropriate for decision without oral argument. The hearing calendared for April 4, 2011, is vacated, and the matter taken off calendar.

Plaintiffs' Motion is procedurally defective for a number of reasons. Among the deficiencies are that the Motion was filed on March 22, 2011 and Plaintiffs set it for a hearing on April 4, 2011. Local Rule 6-1, however, requires that motions be filed with at least 28 days notice. Plaintiffs' Motion also does not contain an indication that Plaintiffs' counsel complied with the meet and confer requirement of Local Rule 7-3. Plaintiffs' counsel also failed to submit a separate Notice of Motion with the Motion or to indicate the date and time of the motion hearing as required by Local Rule 7-4. Nor was the Motion accompanied by a proposed order as required by this Court's Standing Order and Local Rule 7-20. Additionally, to the extent Plaintiffs are seeking to have their Motion heard on shortened time, the Motion fails to comply with Local Rule 7-19's requirements for ex parte applications.

More generally, the filing of this Motion indicates that Plaintiffs' counsel may lack a fundamental familiarity with the Federal Rules of Civil Procedure, and this Court's Local Rules, Orders, and standards of practice. Rather than attacking defense counsel for allegedly "unscrupulous conduct" as Plaintiffs' counsel does in the Motion, this matter probably could have been resolved with a simple phone call to opposing counsel requesting additional time to file an Opposition and a stipulation submitted to the Court. Rather than complying with Local Rule 7-3's meet and confer requirements, Plaintiffs' counsel instead filed this unnecessary and procedurally defective Motion.

Moreover, the "unscrupulous conduct" Plaintiffs' counsel complains of was actually fully in compliance with the Local Rules. It is instead Plaintiffs' counsel who misinterpreted the Local Rules and Federal Rules of Civil Procedure. Specifically, Local Rule 7-9's requirement that an Opposition to a Motion be filed 21 days before the scheduled hearing date is not inconsistent with Federal Rule of Civil Procedure 12(a) because an Opposition to a Motion to Dismiss is not a "responsive pleading" to

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which Rule 12(a) applies. Additionally, as discussed above, defendants' filing of the Motion to Dismiss on 28 days notice is entirely consistent with Local Rule 6-1. Moreover, because defendants' Notice of Motion indicates that defendants complied with Local Rule 7-3's meet and confer requirement, Plaintiffs' counsel had notice of the substance of the Motion to Dismiss for the amount of time required by the Local Rules and for more than the six business days he claims.

For all of the foregoing reasons, Plaintiffs' Motion to Strike is denied. The Notice of Non-Opposition need not be stricken in order for Plaintiffs to file an Opposition to the Motion to Dismiss. The Court will instead construe the Motion to Strike as an Application for Leave to File an Untimely Opposition. So construed, the Court will allow Plaintiffs until March 25, 2011 to file their Opposition to the Motion to Dismiss. Defendants' Reply shall be filed by April 4, 2011. The hearing on the Motion is continued from April 4, 2011 to April 18, 2011 at 1:30 p.m.

The Court urges Plaintiffs' counsel to familiarize himself with the Federal Rules of Civil Procedure, the Local Rules, and the Court's Orders. Future violations may result in the imposition of sanctions.

IT IS SO ORDERED.